

COUNTY OF SAN BERNARDINO

RESOLUTION NO. 04-_____

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT WITH RESPECT TO THE SALE OF THE WOODVIEW APARTMENTS TO SSR REALTY ADVISORS, INC., A DELAWARE CORPORATION, OR ITS AFFILIATED ASSIGNEE; BOND COUNSEL SERVICES AGREEMENT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF ANY AND ALL NECESSARY AND RELATED DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH

On Tuesday, November 23, 2004, on motion of Supervisor _____, duly seconded by Supervisor _____, and carried, the following resolution is adopted.

RESOLVED, by the Board of Supervisors (the "Board") of the County of San Bernardino (the "County") that:

WHEREAS, the County issued its \$17,800,000 Variable Rate Demand Multifamily Housing Revenue Bonds Issue of 1985 (Woodview Apartments Project) (the "Bonds") pursuant to an Indenture of Trust dated as of April 1, 1985 between the County and U.S. Bank National Association (the "Trustee"), as the successor to U.S. Bank Trust National Association, formerly known as First Trust of California, National Association as the successor trustee to The Bank of California, N.A. ("BankCal"), as amended by that First Supplemental Indenture of Trust dated as of September 1, 1998, that Second Supplemental Indenture of Trust dated as of October 1, 1998 and that Third Supplemental Indenture of Trust dated as of April 1, 2004 each between the County and Trustee (together, the "Indenture") in order to facilitate the financing and refinancing of the Woodview Apartments (the "Project"); and

WHEREAS, the County loaned the proceeds of the Bonds to LBK, L.P., a Delaware limited partnership (the "Transferor" or "Owner") as the successor to Woodview Partners, a California limited partnership (the "Original Owner") pursuant to a Loan Agreement (the "Original Loan Agreement"), dated as of April 1, 1985, by and between the County, BankCal and the Original Developer, as amended by that First Amendment to the Loan Agreement, dated as of October 1, 1998, (the "First Amendment to Loan Agreement", collectively with the Original Loan Agreement, the "Loan Agreement") and among the County, the Trustee, and Transferor, the repayment of which is secured in part by a certain deed of trust on the Project, a certain assignment of rents and leases and a security agreement from the Transferor to the County (collectively, the "First Deed of Trust"); and

WHEREAS, in conjunction with the issuance of the Bonds and the loan of the proceeds, the County, Original Owner and BankCal entered into a certain Regulatory Agreement and Declaration of Restrictive Covenants (the "Original Regulatory Agreement"), dated as of April 1, 1985, as amended

by the Amendment To Regulatory Agreement, dated as of October 1, 1998 (the "Amendment," and together with the Original Regulatory Agreement, the "Regulatory Agreement") by and among the County, the Trustee and the Transferor; and

WHEREAS, under the terms of Section 11 of the Regulatory Agreement, the Transferor may not sell, lease, exchange, assign, convey, transfer or otherwise dispose of all or substantially all of the Project without the prior written consent of the County and the Trustee, which consents shall be deemed given upon receipt by the County and the Trustee of (i) reasonable evidence satisfactory to the County and the Trustee that the transferee has assumed in writing and in full, the transferor's duties and obligations under the Regulatory Agreement, and (ii) an opinion of counsel of the transferee that the transferee has duly assumed the obligations of the transferor under the terms of the Regulatory Agreement and that such obligations and the Regulatory Agreement are binding on the transferee; provided, however, that the County may withhold its consent if it determines in the reasonable exercise of its discretion that the proposed transferee is not of good moral character; and

WHEREAS, with respect to the Project, the Transferor has entered into a Purchase and Sale Agreement, dated as of October __, 2004, as amended from time to time (the "Sales Agreement"), by and between Transferor and SSR Realty Advisors, Inc., a Delaware corporation ("SSR"), to sell the Project to SSR, which will assign its interest to a co-mingled fund with SSR as its advisor (the "Transferee"); and

WHEREAS, under the terms and conditions of the Regulatory Agreement the Transferor has requested the County to consent to the sale; and

WHEREAS, in determining whether the requirements of Section 11 of the Regulatory Agreement have been fully satisfied, the County has caused the Transferee to provide written, express, unconditional assumption of all payment obligations and all performance obligations under the Regulatory Agreement, the Loan Agreement, to the extent necessary, and any other document, agreement or instrument evidencing or securing the assumption of the Transferor's obligations by the Transferee; and

WHEREAS, in connection with determining whether to grant or withhold its consent, the County has considered the following: (1) the Transferor is not in default under the bond documents, (2) the continued operation of the Project shall comply with the provisions of the Regulatory Agreement, (3) the Transferee is willing and capable of complying with the terms and conditions of the Regulatory Agreement, (4) the Transferee will execute any documents requested by the County and the Trustee with respect to the assumption of the Transferor's obligations under the Regulatory Agreement; shall

deliver a copy thereof to the Trustee and shall deliver to the County an opinion of its counsel to the effect that each such document and the Regulatory Agreement are valid, binding and enforceable obligations of such purchaser or assignee, (5) the County has no reason to believe that the Transferee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements binding on such purchaser or assignee relating to the Project, (6) the Transferee has agreed to pay to the County its reasonable fees and expenses, (including without limitation, allocable internal costs and fees and expenses of County Counsel and Bond Counsel) in conjunction with such sale, transfer or other disposition of the Project, and (7) such other conditions as the County may reasonably impose shall be met, including without limitation, if requested by the County receipt by the County of an opinion of Bond Counsel to the effect that any such sale, transfer or other disposition will not cause interest on the Bonds to be includable in gross income of the holders thereof for Federal income tax purposes; and

WHEREAS, in conjunction with the entering into of the Assumption Agreement it is the intention of the Transferor and the Transferee to cause the Bonds to be redeemed in whole with the necessary waivers and consents by the County and from Embassy & Co. as nominee for U.S. Bank Trust N.A. as custodian for Merrill, Lynch, Pierce Fenner & Smith, Inc. (the "Bondholder"); and

WHEREAS, pursuant to the terms of the Assumption Agreement, the County proposes to consent to the transfer of the Project to the Transferee, the assignment and assumption by Transferee as provided in the Assumption Agreement and any other document as necessary to fulfill the transfer of the Project; and

WHEREAS, the Board has determined to select from the County's list of approved counsel for housing transactions the law firm of Fulbright & Jaworski L.L.P., Los Angeles, California, as Bond Counsel, pursuant to a Bond Counsel Services Agreement that has been presented and provided to this Board.

NOW, THEREFORE, BE IT ORDERED by the Board of Supervisors of the County of San Bernardino as follows:

Section 1. Provided that the Transferor meets the conditions for sale of the Project as set forth in Section 11 of the Regulatory Agreement, the Chairman of the Board of Supervisors (the "Chairman") and the Director (the "Director") of the Department of Economic and Community Development (the "Department") (each a "Designated Officer") are each hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver to the Transferor written evidence of the County's consent to the sale of the Project, including the Assumption Agreement

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in substantially the form presented. The Chairman and the Director are hereby individually authorized (upon consultation with County Counsel) to determine whether or not the conditions set forth in the Regulatory Agreement have been met. The determination that such conditions have been met shall be evidenced by the execution and delivery to the Transferor of the Assumption Agreement signed by a Designated Officer.

Section 2. Fulbright & Jaworski L.L.P. is hereby appointed as bond counsel ("Bond Counsel") for the County in connection with the transactions contemplated by this Resolution. The Bond Counsel Services Agreement (the "Bond Counsel Services Agreement") provided herewith and presented at this meeting, is hereby approved. The Chairman or the Director is hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver the Bond Counsel Services Agreement.

Section 3. The Chairman and/or the Director are hereby authorized and directed, jointly and severally, for and in the name of and on behalf of the County, to execute and deliver any and all necessary and related documents and take all other necessary and related actions to effectuate the sale of the Project, provided the conditions thereto have been fulfilled and to facilitate the redemption of the Bonds.

Section 4. All actions heretofore taken by the County to effectuate the transaction contemplated by this Resolution are hereby ratified, confirmed and approved.

Section 5. This Resolution shall take effect immediately upon its adoption.

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AYES: SUPERVISORS:
NOES: SUPERVISORS:
ABSENT: SUPERVISORS:

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN BERNARDINO)

By: _____